

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TODD DAVID LUSHIN,

Defendant.

CR 21-05-M-DWM

ORDER

United States Magistrate Judge John T. Johnston entered Findings and Recommendation in this matter on December 7, 2021. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach. Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

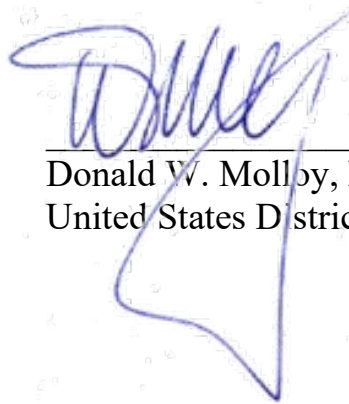
Judge Johnston recommended this Court accept Todd David Lushin’s guilty plea after Lushin appeared before him pursuant to Federal Rule of Criminal

Procedure 11, and entered his plea of guilty to one count of unlawfully obtaining a controlled substance in violation of 21 U.S.C. § 843(a)(3), as set forth in the Indictment filed against him.

I find no clear error in Judge Johnston's Findings and Recommendation (Doc. 29), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing, when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Todd David Lushin's motion to change plea (Doc. 23) is GRANTED. Todd David Lushin is adjudged guilty as charged in the Indictment.

DATED this 22nd day of December, 2021.



Donald W. Molloy, District Judge
United States District Court